THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24574 of 2002 &
W.P.No.2402 of 2003

COMMON ORDER:

W.P.No.24574 of 2002

This writ petition is filed seeking a Mandamus declaring the Notification dated 23.11.2002 issued by the respondents in seeking to auction the house property bearing No.1-9-286/2/4/3/1, Ramnagar Gundu, Zamistanpur, Hyderabad admeasuring 398 sq.yards as arbitrary and illegal.

The case of the petitioner is that he is a third party to the proceedings. He is neither a borrower nor a guarantor nor the property, which is sought to be sold, was offered as security, therefore, he filed the present writ petition seeking to declare the impugned notification as arbitrary and illegal.

A detailed counter affidavit has been filed by the second respondent asserting that in the pamphlet published for conducting auction, by oversight it was printed as 398 sq.yards instead of 235 sq.yards out of 398 sq.yards and in fact the description of the property, which was mortgaged was correctly published in the auction notice. It was further asserted that the petitioner gave no objection for mortgaging the property in favour of second respondent to the share of B.Roopal and B.Sudesh Kumar.

Be that as it may, if the petitioner feels that he has not mortgaged his property to the respondent bank, it is always open for him to file a claim petition under Rule 52(21) of the A.P. Cooperative Societies Act, 1964 before the Sale Officer.

Therefore, the petitioner is directed to file a claim petition under Rule 52(21) of the Act before the Sale Officer. On filing such claim petition, the Sale Officer is directed to dispose of the same in

accordance with law, after hearing the petitioner. Till such time, the impugned notification dated 23.11.2002 shall not be given effect to.

W.P.No.2403 of 2003

The grievance of the petitioner in this writ petition is that the respondents, without proceeding against the principal borrower and his properties, are proceeding against the properties of the petitioner, who stood as guarantor.

May be, it is always open for the respondents to proceed against the guarantor, but that does not mean without making any efforts against the principal borrower, the respondents could have proceeded against the petitioner alone.

In view of the same, the respondents are directed to first proceed against the properties of the principal borrower and if for any reason, the amounts realized therefor are not sufficient, it is always open for them to proceed against the properties of the petitioner.

With the above observations and directions, both the writ petitions are accordingly disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 21.9.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24574 of 2002 &
W.P.No.2402 of 2003

21.9.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24574 of 2002 &
W.P.No.2402 of 2003

Date: 21st September, 2006

Between:

Sri Thakur Singh .. Petitioner in W.P.No.24574 of 2002

B.Rooplal .. Petitioner in W.P.No.2402 of 2003

And

The District Registrar of
Cooperative Societies, Officer on Special Duty,
Vasavi Coop. Urban Bank Ltd.,
Hyderabad & another.

.. Respondents